

1 AN ACT

2 RELATING TO STATE HEALTH INSTITUTIONS; CHANGING THE NAME OF
3 THE NEW MEXICO STATE HOSPITAL TO THE NEW MEXICO BEHAVIORAL
4 HEALTH INSTITUTE AT LAS VEGAS.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. Section 6-13-2 NMSA 1978 (being Laws 1949,
8 Chapter 121, Section 1) is amended to read:

9 "6-13-2. STATE INSTITUTIONS.-- The state institutions,
10 within the meaning of Chapter 6, Article 13 NMSA 1978, are
11 the university of New Mexico, the New Mexico state
12 university, the New Mexico institute of mining and
13 technology, the New Mexico military institute, the New Mexico
14 highlands university, the western New Mexico university, the
15 northern New Mexico state school, the New Mexico school for
16 the deaf, the New Mexico school for the blind and visually
17 impaired, the eastern New Mexico university, the Los Lunas
18 medical center, the penitentiary of New Mexico, the New
19 Mexico behavioral health institute at Las Vegas, the New
20 Mexico boys' school and the miners' hospital."

21 Section 2. Section 19-1-17 NMSA 1978 (being Laws 1917,
22 Chapter 115, Section 1) is amended to read:

23 "19-1-17. PERMANENT, INCOME AND CURRENT FUNDS--CREATING
24 DEPOSITS.--

25 A. The following funds are created.

1 B. To the credit of these funds, in the respective
2 proportions to which they are by law entitled, all money
3 derived from state lands shall be deposited by the
4 commissioner with the state treasurer, as nearly as possible,
5 on the first day of each calendar month. The commissioner
6 shall keep an accurate record of all such deposits. The
7 funds are:

- 8 (1) common school current fund;
- 9 (2) common school permanent fund;
- 10 (3) university income fund;
- 11 (4) university permanent fund;
- 12 (5) university saline income fund;
- 13 (6) New Mexico state university income fund;
- 14 (7) New Mexico state university permanent
15 fund;
- 16 (8) western New Mexico university income
17 fund;
- 18 (9) western New Mexico university permanent
19 fund;
- 20 (10) New Mexico highlands university income
21 fund;
- 22 (11) New Mexico highlands university
23 permanent fund;
- 24 (12) northern New Mexico state school income
25 fund;

- 1 (13) northern New Mexico state school
2 permanent fund;
- 3 (14) eastern New Mexico university income
4 fund;
- 5 (15) eastern New Mexico university permanent
6 fund;
- 7 (16) New Mexico institute of mining and
8 technology income fund;
- 9 (17) New Mexico institute of mining and
10 technology permanent fund;
- 11 (18) New Mexico military institute income
12 fund;
- 13 (19) New Mexico military institute permanent
14 fund;
- 15 (20) New Mexico boys' school income fund;
- 16 (21) New Mexico boys' school permanent fund;
- 17 (22) miners' hospital income fund;
- 18 (23) miners' hospital permanent fund;
- 19 (24) New Mexico behavioral health institute
20 at Las Vegas income fund;
- 21 (25) New Mexico behavioral health institute
22 at Las Vegas permanent fund;
- 23 (26) penitentiary income fund;
- 24 (27) penitentiary permanent fund;
- 25 (28) state charitable, penal and reformatory

1 institutions income fund;

2 (29) state charitable, penal and reformatory
3 institutions permanent fund;

4 to be equally distributed among the institutions as defined
5 in Article 14, Section 1 of the constitution of New Mexico;

6 (30) New Mexico school for the blind and
7 visually impaired income fund;

8 (31) New Mexico school for the blind and
9 visually impaired permanent fund;

10 (32) New Mexico school for the deaf income
11 fund;

12 (33) New Mexico school for the deaf
13 permanent fund;

14 (34) permanent reservoirs for irrigation
15 purposes income fund;

16 (35) permanent reservoirs for irrigation
17 purposes permanent fund;

18 (36) improvement of Rio Grande income fund;

19 (37) improvement of Rio Grande permanent
20 fund;

21 (38) public buildings at capital income
22 fund;

23 (39) public buildings at capital permanent
24 fund;

25 (40) Santa Fe and Grant county railroad bond SB 883
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1 fund, to be applied as provided by Article 9, Section 4 of
2 the constitution of New Mexico; and

3 (41) state lands maintenance fund."

4 Section 3. Section 22-1-2 NMSA 1978 (being Laws 2003,
5 Chapter 153, Section 3, as amended) is amended to read:

6 "22-1-2. DEFINITIONS.--As used in the Public School
7 Code:

8 A. "adequate yearly progress" means the measure
9 adopted by the department based on federal requirements to
10 assess the progress that a student, a public school or school
11 district or the state makes toward improving student
12 achievement;

13 B. "commission" means the public education
14 commission;

15 C. "department" means the public education
16 department;

17 D. "forty-day report" means the report of
18 qualified student membership of each school district and of
19 those eligible to be qualified students but enrolled in a
20 private school or a home school for the first forty days of
21 school;

22 E. "home school" means the operation by the parent
23 of a school-age person of a home study program of instruction
24 that provides a basic academic educational program, including
25 reading, language arts, mathematics, social studies and

1 science;

2 F. "instructional support provider" means a person
3 who is employed to support the instructional program of a
4 school district, including educational assistant, school
5 counselor, social worker, school nurse, speech-language
6 pathologist, psychologist, physical therapist, occupational
7 therapist, recreational therapist, interpreter for the deaf
8 and diagnostician;

9 G. "licensed school employee" means teachers,
10 school administrators and instructional support providers;

11 H. "local school board" means the policy-setting
12 body of a school district;

13 I. "local superintendent" means the chief
14 executive officer of a school district;

15 J. "parent" includes a guardian or other person
16 having custody and control of a school-age person;

17 K. "private school" means a school, other than a
18 home school, that offers on-site programs of instruction and
19 that is not under the control, supervision or management of a
20 local school board;

21 L. "public school" means that part of a school
22 district that is a single attendance center in which
23 instruction is offered by one or more teachers and is
24 discernible as a building or group of buildings generally
25 recognized as either an elementary, middle, junior high or

1 high school or any combination of those and includes a
2 charter school;

3 M. "school" means a supervised program of
4 instruction designed to educate a student in a particular
5 place, manner and subject area;

6 N. "school administrator" means a person licensed
7 to administer in a school district and includes school
8 principals and central district administrators;

9 O. "school-age person" means a person who is at
10 least five years of age prior to 12:01 a.m. on September 1 of
11 the school year and who has not received a high school
12 diploma or its equivalent. A maximum age of twenty-one shall
13 be used for a person who is classified as special education
14 membership as defined in Section 22-8-2 NMSA 1978 or as a
15 resident of a state institution;

16 P. "school building" means a public school, an
17 administration building and related school structures or
18 facilities, including teacher housing, that is owned,
19 acquired or constructed by the school district as necessary
20 to carry out the functions of the school district;

21 Q. "school bus private owner" means a person,
22 other than a school district, the department, the state or
23 any other political subdivision of the state, that owns a
24 school bus;

25 R. "school district" means an area of land

1 established as a political subdivision of the state for the
2 administration of public schools and segregated
3 geographically for taxation and bonding purposes;

4 S. "school employee" includes licensed and
5 nonlicensed employees of a school district;

6 T. "school principal" means the chief
7 instructional leader and administrative head of a public
8 school;

9 U. "school year" means the total number of
10 contract days offered by public schools in a school district
11 during a period of twelve consecutive months;

12 V. "secretary" means the secretary of public
13 education;

14 W. "state agency" or "state institution" means the
15 New Mexico military institute, New Mexico school for the
16 blind and visually impaired, New Mexico school for the deaf,
17 New Mexico boys' school, New Mexico girls' school, New Mexico
18 youth diagnostic and development center, Sequoyah adolescent
19 treatment center, Carrie Tingley crippled children's
20 hospital, New Mexico behavioral health institute at Las Vegas
21 and any other state agency responsible for educating resident
22 children;

23 X. "state educational institution" means an
24 institution enumerated in Article 12, Section 11 of the
25 constitution of New Mexico;

1 Y. "substitute teacher" means a person who holds a
2 certificate to substitute for a teacher in the classroom;

3 Z. "teacher" means a person who holds a level one,
4 two or three-A license and whose primary duty is classroom
5 instruction or the supervision, below the school principal
6 level, of an instructional program;

7 AA. "certified school instructor" means a teacher
8 or instructional support provider; and

9 BB. "certified school employee" or "certified
10 school personnel" means a licensed school employee."

11 Section 4. Section 23-1-12 NMSA 1978 (being Laws 1977,
12 Chapter 253, Section 42) is amended to read:

13 "23-1-12. TRANSFER OF EXISTING INSTITUTIONS.--

14 A. All property, appropriations and cash balances
15 now held in the name of the following institutional
16 facilities, or by any state agency for the indicated
17 facilities, the use of which is not limited by the terms of
18 any trust or constitutional provision, are transferred to the
19 department of health:

20 (1) New Mexico behavioral health institute
21 at Las Vegas;

22 (2) Los Lunas medical center;

23 (3) Fort Bayard medical center veterans'
24 unit;

25 (4) Villa Solano;

- 1 (5) Fort Stanton hospital;
- 2 (6) Turquoise lodge; and
- 3 (7) Pecos lodge.

4 B. The secretary of health may delegate the
5 authority for the supervision and operation of any of the
6 institutional facilities transferred under Subsection A of
7 this section to any of the organizational units within the
8 department of health."

9 Section 5. Section 23-1-13 NMSA 1978 (being Laws 1970,
10 Chapter 45, Section 1) is amended to read:

11 "23-1-13. NEW MEDICAL CENTER NAMES.--

12 A. Henceforth, the New Mexico state hospital at
13 Las Vegas and the meadows home for the aged will be known as
14 the "New Mexico behavioral health institute at Las Vegas".
15 This center may offer general hospital care, extended care,
16 intermediate care, skilled nursing services and out-patient
17 care, as well as services now required by statute.

18 B. Henceforth, the Los Lunas hospital and training
19 school at Los Lunas will be known as the "Los Lunas medical
20 center". This center may offer general hospital care,
21 extended care, skilled nursing services and out-patient care,
22 as well as services now required by statute.

23 C. Henceforth, the Fort Bayard hospital will be
24 known as the "Fort Bayard medical center". This center may
25 offer general hospital care, extended care, skilled nursing

1 services and out-patient care, as well as services now
2 required by statute."

3 Section 6. Section 23-5-1 NMSA 1978 (being Laws 1959,
4 Chapter 360, Section 1) is amended to read:

5 "23-5-1. OBJECT.--The object of the New Mexico
6 behavioral health institute at Las Vegas is the observation,
7 diagnosis, treatment, care and maintenance of the mentally
8 ill."

9 Section 7. Section 30-9-10 NMSA 1978 (being Laws 1975,
10 Chapter 109, Section 1, as amended) is amended to read:

11 "30-9-10. DEFINITIONS.--As used in Sections 30-9-10
12 through 30-9-16 NMSA 1978:

13 A. "force or coercion" means:

14 (1) the use of physical force or physical
15 violence;

16 (2) the use of threats to use physical
17 violence or physical force against the victim or another when
18 the victim believes that there is a present ability to
19 execute the threats;

20 (3) the use of threats, including threats of
21 physical punishment, kidnapping, extortion or retaliation
22 directed against the victim or another when the victim
23 believes that there is an ability to execute the threats;

24 (4) the perpetration of criminal sexual
25 penetration or criminal sexual contact when the perpetrator

1 knows or has reason to know that the victim is unconscious,
2 asleep or otherwise physically helpless or suffers from a
3 mental condition that renders the victim incapable of
4 understanding the nature or consequences of the act; or

5 (5) the perpetration of criminal sexual
6 penetration or criminal sexual contact by a psychotherapist
7 on his patient, with or without the patient's consent, during
8 the course of psychotherapy or within a period of one year
9 following the termination of psychotherapy.

10 Physical or verbal resistance of the victim is not an
11 element of force or coercion;

12 B. "great mental anguish" means psychological or
13 emotional damage that requires psychiatric or psychological
14 treatment or care, either on an inpatient or outpatient
15 basis, and is characterized by extreme behavioral change or
16 severe physical symptoms;

17 C. "patient" means a person who seeks or obtains
18 psychotherapy;

19 D. "personal injury" means bodily injury to a
20 lesser degree than great bodily harm and includes, but is not
21 limited to, disfigurement, mental anguish, chronic or
22 recurrent pain, pregnancy or disease or injury to a sexual or
23 reproductive organ;

24 E. "position of authority" means that position
25 occupied by a parent, relative, household member, teacher,

1 employer or other person who, by reason of that position, is
2 able to exercise undue influence over a child;

3 F. "psychotherapist" means a person who is or
4 purports to be a:

5 (1) licensed physician who practices
6 psychotherapy;

7 (2) licensed psychologist;

8 (3) licensed social worker;

9 (4) licensed nurse;

10 (5) counselor;

11 (6) substance abuse counselor;

12 (7) psychiatric technician;

13 (8) mental health worker;

14 (9) marriage and family therapist;

15 (10) hypnotherapist; or

16 (11) minister, priest, rabbi or other

17 similar functionary of a religious organization acting in his
18 role as a pastoral counselor;

19 G. "psychotherapy" means professional treatment or
20 assessment of a mental or an emotional illness, symptom or
21 condition;

22 H. "school" means any public or private school,
23 including the New Mexico military institute, the New Mexico
24 school for the blind and visually impaired, the New Mexico
25 school for the deaf, the New Mexico boys' school, the New

1 Mexico youth diagnostic and development center, the Los Lunas
2 medical center, the Fort Stanton hospital, the New Mexico
3 behavioral health institute at Las Vegas and the Carrie
4 Tingley crippled children's hospital, that offers a program
5 of instruction designed to educate a person in a particular
6 place, manner and subject area. "School" does not include a
7 college or university; and

8 I. "spouse" means a legal husband or wife, unless
9 the couple is living apart or either husband or wife has
10 filed for separate maintenance or divorce."

11 Section 8. Section 31-14-6 NMSA 1978 (being Laws 1929,
12 Chapter 69, Section 6) is amended to read:

13 "31-14-6. ORDER OF COURT COMMITTING INSANE PERSON TO
14 HOSPITAL.--The court shall make and cause to be entered an
15 order reciting the fact of such inquiry and the result
16 thereof. When it is found that the defendant is insane, the
17 order shall direct that the defendant be taken to the New
18 Mexico behavioral health institute at Las Vegas, and there
19 kept in safe confinement until his reason is restored."

20 Section 9. Section 31-14-7 NMSA 1978 (being Laws 1929,
21 Chapter 69, Section 7) is amended to read:

22 "31-14-7. DEFENDANT FOUND TO BE SANE--DUTY OF WARDEN.--
23 If it is found that the defendant is sane, the warden shall
24 proceed to execute the judgment as specified in the warrant.
25 If it is found that the defendant is insane, the warden shall

1 suspend the execution and transmit a certified copy of the
2 order mentioned in Section 31-14-6 NMSA 1978 to the governor,
3 and deliver the defendant, together with a certified copy of
4 such order, to the superintendent of the New Mexico
5 behavioral health institute at Las Vegas. When the defendant
6 recovers his reason, the superintendent of the institute
7 shall certify that fact to the governor who shall thereupon
8 issue to the warden his warrant, appointing a day for the
9 execution of the judgment."

10 Section 10. Section 31-21-11 NMSA 1978 (being Laws
11 1959, Chapter 30, Section 1, as amended) is amended to read:

12 "31-21-11. PAROLE TO DETAINERS TO SERVE ANOTHER
13 SENTENCE OR FOR HOSPITALIZATION AND TREATMENT.--Prisoners who
14 are otherwise eligible for parole may be paroled to detainers
15 to serve another sentence within the penitentiary or to the
16 forensic treatment or alcohol treatment unit of the New
17 Mexico behavioral health institute at Las Vegas or to any
18 other specific hospital or residential treatment program
19 determined necessary by the board."

20 Section 11. Section 43-1-3 NMSA 1978 (being Laws 1977,
21 Chapter 279, Section 2, as amended) is amended to read:

22 "43-1-3. DEFINITIONS.--As used in the Mental Health and
23 Developmental Disabilities Code:

24 A. "aversive stimuli" means anything which,
25 because it is believed to be unreasonably unpleasant,

1 uncomfortable or distasteful to the client, is administered
2 or done to the client for the purpose of reducing the
3 frequency of a behavior, but does not include verbal
4 therapies, physical restrictions to prevent imminent harm to
5 self or others or psychotropic medications which are not used
6 for purposes of punishment;

7 B. "client" means any patient who is requesting or
8 receiving mental health services or any person requesting or
9 receiving developmental disabilities services or who is
10 present in a mental health or developmental disabilities
11 facility for the purpose of receiving such services or who
12 has been placed in a mental health or developmental
13 disabilities facility by his parent or guardian or by any
14 court order;

15 C. "code" means the Mental Health and
16 Developmental Disabilities Code;

17 D. "consistent with the least drastic means
18 principle" means that the habilitation or treatment and the
19 conditions of habilitation or treatment for the client,
20 separately and in combination:

21 (1) are no more harsh, hazardous or
22 intrusive than necessary to achieve acceptable treatment
23 objectives for the client;

24 (2) involve no restrictions on physical
25 movement and no requirement for residential care except as

1 reasonably necessary for the administration of treatment or
2 for the protection of the client or others from physical
3 injury; and

4 (3) are conducted at the suitable available
5 facility closest to the client's place of residence;

6 E. "convulsive treatment" means any form of mental
7 health treatment which depends upon creation of a convulsion
8 by any means, including but not limited to electroconvulsive
9 treatment and insulin coma treatment;

10 F. "court" means a district court of New Mexico;

11 G. "department" or "division" means the behavioral
12 health services division of the department of health;

13 H. "developmental disability" means a disability
14 of a person which is attributable to mental retardation,
15 cerebral palsy, autism or neurological dysfunction which
16 requires treatment or habilitation similar to that provided
17 to persons with mental retardation;

18 I. "evaluation facility" means a community mental
19 health or developmental disability program, a medical
20 facility having psychiatric or developmental disability
21 services available, including the New Mexico behavioral
22 health institute at Las Vegas, the Los Lunas medical center
23 or, if none of the foregoing is reasonably available or
24 appropriate, the office of a licensed physician or a
25 certified psychologist, any of which shall be capable of

1 performing a mental status examination adequate to determine
2 the need for involuntary treatment;

3 J. "experimental treatment" means any mental
4 health or developmental disabilities treatment which presents
5 significant risk of physical harm, but does not include
6 accepted treatment used in competent practice of medicine and
7 psychology and supported by scientifically acceptable
8 studies;

9 K. "grave passive neglect" means failure to
10 provide for basic personal or medical needs or for one's own
11 safety to such an extent that it is more likely than not that
12 serious bodily harm will result in the near future;

13 L. "habilitation" means the process by which
14 professional persons and their staff assist the
15 developmentally disabled client in acquiring and maintaining
16 those skills and behaviors which enable him to cope more
17 effectively with the demands of his own person and of his
18 environment and to raise the level of his physical, mental
19 and social efficiency. "Habilitation" includes but is not
20 limited to programs of formal, structured education and
21 treatment;

22 M. "likelihood of serious harm to oneself" means
23 that it is more likely than not that in the near future the
24 person will attempt to commit suicide or will cause serious
25 bodily harm to himself by violent or other self-destructive

1 means, including but not limited to grave passive neglect;

2 N. "likelihood of serious harm to others" means
3 that it is more likely than not that in the near future the
4 person will inflict serious, unjustified bodily harm on
5 another person or commit a criminal sexual offense, as
6 evidenced by behavior causing, attempting or threatening such
7 harm, which behavior gives rise to a reasonable fear of such
8 harm from the person;

9 O. "mental disorder" means the substantial
10 disorder of the person's emotional processes, thought or
11 cognition which grossly impairs judgment, behavior or
12 capacity to recognize reality, but does not mean
13 developmental disability;

14 P. "mental health or developmental disabilities
15 professional" means a physician or other professional who by
16 training or experience is qualified to work with individuals
17 with mental disorders or developmental disabilities;

18 Q. "physician" or "certified psychologist", when
19 used for the purpose of hospital admittance or discharge,
20 means a physician or certified psychologist who has been
21 granted admitting privileges at a hospital licensed by the
22 department of health, if such privileges are required;

23 R. "psychosurgery" means those operations
24 currently referred to as lobotomy, psychiatric surgery and
25 behavioral surgery and all other forms of brain surgery if

1 the surgery is performed for the purpose of the following:

2 (1) modification or control of thoughts,
3 feelings, actions or behavior rather than the treatment of a
4 known and diagnosed physical disease of the brain;

5 (2) treatment of abnormal brain function or
6 normal brain tissue in order to control thoughts, feelings,
7 actions or behavior; or

8 (3) treatment of abnormal brain function or
9 abnormal brain tissue in order to modify thoughts, feelings,
10 actions or behavior when the abnormality is not an
11 established cause for those thoughts, feelings, actions or
12 behavior.

13 "Psychosurgery" does not include prefrontal sonic
14 treatment in which there is no destruction of brain tissue;

15 S. "residential treatment or habilitation program"
16 means diagnosis, evaluation, care, treatment or habilitation
17 rendered inside or on the premises of a mental health or
18 developmental disabilities facility, hospital, clinic,
19 institution or supervisory residence or nursing home when the
20 individual resides on the premises; and

21 T. "treatment" means any effort to accomplish a
22 significant change in the mental or emotional condition or
23 behavior of the client."_____